REMARKS

Claims 1-29 are pending. In the Office Action dated May 26, 2004, the Examiner withdrew claims 11 and 16-29 from consideration, and rejected claims 1-10 and 12-15. Applicants have herein amended claims 1, 12, and 14. Support for the amendments may be found at page 5, line 30 to page 6, line 1. No new matter has been added. Accordingly, claims 1-10 and 12-15 are pending.

In light of the amendments and the remarks herein, Applicants respectfully request reconsideration and allowance of claims 1-10 and 12-15.

Rejections under 35 U.S.C. § 102(e)

The Examiner rejected claims 1-3, 8-10, and 12-15 under 35 U.S.C. § 102(e) as being anticipated by Glucksmann *et al.* (US 2001/0044130) (hereinafter "Glucksmann"). In particular, the Examiner stated that Glucksmann teaches the 39406 polypeptide containing seven transmembrane regions; the 39406 polypeptide fused to GST, enzymes, and poly-His; and extracellular loops of the 39406 polypeptide that are used to make antibodies.

Applicants respectfully disagree with the rejections as applied to the amended claims. A claim is anticipated under § 102 only if each and every limitation is disclosed in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 639 (Fed. Cir. 1989) and MPEP § 2131. Independent claims 1, 12, and 14 recite that the chimeric polypeptide includes at least one transmembrane segment derived from the group consisting of bacteriorhodopsin, photosynthetic reaction center L- and M- chains, and Cry δ endotoxin. At no point does Glucksmann teach or suggest a chimeric polypeptide having at least one transmembrane segment derived from bacteriorhodopsin, photosynthetic reaction center L- and M- chains, or Cry δ endotoxin. Glucksmann is directed to the 39406 GPCR polypeptide and fusions thereof. Accordingly, Glucksmann cannot anticipate the present claims, and Applicants respectfully request withdrawal of the rejections.

The Examiner also rejected claims 1-10 and 12-15 under 35 U.S.C. § 102(e) as being anticipated by Bogan *et al.* (US 6,303,373) (hereinafter "Bogan"). In particular, the Examiner

stated that Bogan teaches a modified GLUT4 reporter possessing at least two transmembrane domains and containing myc epitope tags and GFP.

Applicants respectfully disagree with the rejections as applied to the pending claims. As indicated previously, claims 1, 12, and 14 recite that the chimeric polypeptide includes at least one transmembrane segment derived from the group consisting of bacteriorhodopsin, photosynthetic reaction center L- and M- chains, and Cry δ endotoxin. At no point does Bogan teach or suggest a chimeric polypeptide having at least one transmembrane segment derived from bacteriorhodopsin, photosynthetic reaction center L- and M- chains, or Cry δ endotoxin. Bogan is directed to the GLUT4 glucose transporter and fusions and modifications thereof. Accordingly, Bogan cannot anticipate the present claims, and Applicants respectfully request withdrawal of the rejections.

CONCLUSION

Applicants respectfully assert that all claims are in condition for allowance, which action is requested. The Examiner is invited to telephone the under-signed if such would expedite prosecution.

Enclosed is a $490.00 check for the Petition for Extension of Time fee (3 months). Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 11/24/04

Teresa A. Lavoie, Ph.D.
Reg. No. 42,782

Fish & Richardson P.C., P.A.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696